

Message Text

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12

ACTION PM-07

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ACDA-19 SCI-06 L-03 NASA-04 TRSE-00 DRC-01 /063 W

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R 070444Z JUN 74

FM AMEMBASSY CANBERRA

TO SECSTATE WASHDC 3344

INFO DOD/ISA WASHDC

ARPA WASHDC

CINCPAC

C O N F I D E N T I A L CANBERRA 3494

CINCPAC FOR ARAP REP

E.O. 11652: GDS

TAGS/ MARR, AS, US

SUBJECT: AGREEMENT FOR PROJECT HI STAR SOUTH

REF: A) STATE 058781

B) AFCRL HANSCOM FLD MAR/LCR 051400Z JUN 74

TO WRE SALISBURY, SOUTH AUSTRALIA (NOTAL)

1. SUMMARY: EMBASSY PROVIDED JUN 6 WITH AUSTRALIAN REDRAFT OF NOTE ON SUBJECT PROJECT TRANSMITTED REF A. AUSTRALIAN REDRAFT INTENDED TO LIMIT NOTE TO COVER HI STAR SOUTH PRIMARILY, ALTHOUGH LANGUAGE ALLOWING FOR FUTURE COOPERATIVE PROJECTS BETWEEN ARPA AND APPROPRIATE AUSTRALIAN AGENCIES HAS BEEN RETAINED. DETAILED COMMENTS ON AUSTRALIAN REDRAFT GIVEN BELOW. ARPA REPRESENTATIVE CANBERRA IN TRAVEL STATUS BUT WILL BE ASKED TO SEND ANY COMMENTS HE MAY HAVE ON AUSTRALIAN REDRAFT SEPARATELY WHEN HE RETURNS JUNE 10. EMBASSY NOTES HI STAR SOUTH PROGRAM OF LAUNCHES HAS BEEN RESCHEDULED NOW TO TAKE PLACE IN SEPTEMBER (REF B). END SUMMARY

2. EMBOFF MET JUNE 6 WITH DEFENSE LIAISON BRANCH OFFICER AND DEPARTMENT OF FOREIGN AFFAIRS LAWYER TO RECEIVE AND DISCUSS AUSTRALIAN REDRAFT OF HI STAR SOUTH AGREEMENT. AUSTRALIANS NOTED REDRAFT INTENDED TO COVER
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HI STAR SOOUTH PARTICULARLY ALHTOUGH GENERAL LANGUAGE

ALLOWING FOR OTHER COOPERATIVE PROJECTS IN THE FUTURE BETWEEN ARPA AND AUSTRALIAN AGENCIES IS RETAINED IN REDRAFT. WHEN QUERIED, AUSTRALIAN REPS SAID REDRAFT IS INTENDED TO PROVIDE " APPROPRIATE" BASIS FOR CONDUCTING HI STAR SOUTH AND SHOULD NOT BE CONSIDERED IN ANY WASY AS PRECEDENT FOR TYPE OF AGREEMENT WHICH MIGHT COVER FUTURE ARPA-AUSTRALIAN PROJECTS. SUCH FUTURE PROJECTS THEY SAID WOULD HAVE TO BE SUBJECT OF MUTUAL AGREEMENT BETWEEN TWO GOVERNMENTS. GOA REPS ACKNOWLEDGED THAT OTHER ARPA PROJECTS WHICH DO NOT INVOLVE PRESENCE OF U.S. PERSONNEL OR U.S. CONTRACTORS IN AUSTRALIA, E.G. , PROJECT BOOLEE, ARE ALREADY UNDER WAY HAVING BEEN BROUGHT UNDER MEMORANDUM OF UNDERSTANDING OF JULY 1968, BETWEEN AUSTRALIAN MINISTER OF DEFENSE AND U.S. SECRETARY OF DEFENSE RELATING TO UNITED STATES-- AUSTRALIAN COOPERATIVE RESEARCH AND DEVELOPMENT.

3. CHANGES IN TEXT ARE AS FOLLOWS (KEYED TO AUSTRALIAN DRAFT):

A. PARA 2: AUSTRALIAN DRAFT ADOPTS LANGUAGE OF NASA AGREEMENT OF 1973 TO DESCRIBE AEROBEE LAUNCHES. NASA PROGRAM INVOLVED UP TO SEVEN AEROBEE LAUNCHES AND FIRST LAUNCHINGS UNDER 1973 AGREEMENT WERE CONCLUDED AT WOOMERA LAST NOVEMBER.

COMMENT: LANGUAGE APPEARS TO BE UNEXCEPTIONABLE.

B. PARA 3: GOA ACCEPTS IN PART (A) APPLICATION OF THE SOFA OF 1963 TO MEMBERS OF THE U.S. ARMED AND U.S.G. EMPLOYEES BUT EXCEPTS THE APPLICATION OF ARTICLE 12 RELATING TO THE WAIVER OF EACH GOVERNMENT'S CLAIMS ARISING FROM THE USE OF GOVERNMENT-OWNED PROPERTY (PARAS (A) AND (2). IN FUTURE DISCUSSION IT BECAME EVIDENT THAT THE GOA WANTS ALL CLAIMS ARISING FROM THIS PROJECT TO BE COVERED BY INSURANCE TO BE TAKEN OUT BY THE DEPARTMENT OF SUPPLY ON BEHALF OF ARPA, THE COST OF WHICH WILL BE INCLUDED AS PART OF THE TOTAL COST FOR THE PROJECT ASSESSABLE TO ARPA. IN THIS MATTER, THE GOA IS FOLLOWING THE ARRANGEMENT MADE FOR INSURANCE IN CONNECTION WITH THE NASA AEROBEE LAUNCHES
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IN 1973. THE GOA REPS SAID THE ONLY DIFFERENCE BETWEEN THE INSURANCE TAKEN OUT ON BEHALF OF NASA AND THAT TO BE TAKEN OUT ON BEHALF OF ARPA IS THAT THE NASA INSURANCE CONTAINED AN \$5,000 EXCESS (\$5,000 DEDUCTIBLE) WHICH NASA HAD AGREED TO PAY FOR EACH CLAIM. ACCORDING TO THE U.S. SENDING STATE OFFICE CANBERRA, ARPA HAS NO LEGAL AUTHORITY TO PAY SUCH A DEDUCTIBLE IN THE EVENT OF A CLAIM, AND ON THIS BASIS THE GOA HAS AGREED TO OBTAIN

INSURANCE FOR ARPA WHICH DOES NOT CONTAIN SUCH A PROVISION.

COMMENT: AUSTRALIAN INTENTION OBVIOUSLY IS TO AVOID HAVING GOA MADE LIABLE IN ANY WAY FOR CONDUCT OF PROGRAM WHICH GOA CONSIDERS TO BE PRIMARILY OF BENEFIT TO USG. ALSO, FACT THAT WOOMERA RANGE IS JOINTLY MANAGED WITH BRITISH HAS SUGGESTED TO GOA THAT BRITISH TOO SHOULD NOT BE LIABLE FOR THIS PROJECT. OUR UNDERSTANDING IS THAT PROPOSAL TO COVER THESE LAUNCHES BY INSURANCE WAS MADE DURING CONVERSATIONS BETWEEN DEPT OF SUPPLY OFFICIALS AND USG REPS IN CANBERRA IN JAN 1974. OUR IMPRESSION IS THAT OBTAINING INSURANCE COVERAGE AS STATED ABOVE IS ACCEPTABLE TO ARPA. WE WILL, HOWEVER, CHECK WITH ARPA REP ON HIS RETURN AND REQUEST HIM TO CONFIRM HIS UNDERSTANDING OF THE SITUATION SEPARATELY IF DIFFERENT FROM THE FOREGOING.

C. PARA 3, SUB-PARAS B1, 2 AND 3: THIS PORTION OF TEXT IS A VERBATIM INCLUSION OF ARTICLES VII, VIII AND IX OF THE JDSCS AGREEMENT (TIAS 6788) WITH EXCEPTION OF LAST TWO SENTENCES IN ARTICLE VII AND PORTION OF THIRD FROM LAST SENTENCE IN SAME ARTICLE. RATIONALE FOR THIS DELETION IS THAT DISPOSAL OF PROPERTY COVERED IN THE ABOVE DELETIONS COULD BE HANDLED UNDER EXCESS PROPERTY DISPOSAL AGREEMENT CONCLUDED NOV 9, 1973, BETWEEN US ARTICLES ARE SUBSTITUTION OF "PROJECT" FOR "STATION" WHEREVER LATTER APPEARS.

COMMENT: GOA RATIONALE FOR INCLUDING TEXT OF ABOVE ARTICLES IN ITS REDRAFT IS THAT FULL TEXT MAKES SITUATION "CLEAR" AND WILL BE USEFUL TO AUSTRALIAN CUSTOMS AUTHORITIES IN HANDLING IMPORT OF EQUIPMENT FOR PROJECT. CONFIDENTIAL

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ALTHOUGH GOA HAS ACCEPTED OUR SUGGESTION OF APPLYING ARTICLE VIII TO U.S. CONTRACTORS, THEY HAVE NOT ACCEPTED ARTICLE X. REASON IS THAT SINCE U.S. CONTRACTORS DO NOT HAVE STATUS UNDER SOFA AND WILL BE IN COUNTRY FOR VARIOUS PERIODS NONE OF WHICH IS EXPECTED TO EXCEED TWO MONTHS IN DURATION, U.S. CONTRACTORS EXEMPTION FROM AUSTRALIAN INCOME TAX ALREADY PROVIDED FOR UNDER U.S. -AUSTRALIAN DOUBLE TAXATION AGREEMENT (TIAS 2880) OF DEC 1963. DOUBLE TAXATION AGREEMENT ALLOWS EXEMPTION FROM AUSTRALIAN INCOME TAX FOR U.S. RESIDENTS TEMPORARILY IN AUSTRALIA FOR ANY PERIOD LESS THAN 183 DAYS. WHEN ASKED HOW OTHER FEATURES OF ARTICLE X OF JDSCS AGREEMENT WERE TO BE COVERED, E.G. PERSONAL PROPERTY AND ESTATE AND GIFT TAXES, GOA REPS INDICATED THEY WOULD

LOOK INTO MATTER AND LET US KNOW. IN THIS CONNECTION, THEY REFER TO ANOTHER DOUBLE TAXATION AGREEMENT RELATING TO TAXES ON ESTATES OF DECEASED PERSONS (TIAS 2903) OF JAN 7, 1954. IT APPEARS TO US, HOWEVER, TO BE UNLIKELY THAT U.S. CONTRACTS ASSOCIATED WITH THIS PROJECT WILL BE BRINGING ANY GREAT AMOUNTS OF PERSONAL PROPERTY WITH THEM. ALSO, WITH RESPECT TO ESTATE DUTIES, GOA REP INCIATED THAT AUSTRALIAN TAX WOULD NOT BE LEVIED UNDER EXISTING AUSTRALIAN LAW UNTIL A CERTAIN VALUATION HAD BEEN REACHED IN DETERMING WORTH OF AN INDIVIDUAL'S PROPERTY, LOCATED IN AUSTRALIA. GOA REP VOLUNTEERED TO INFORM US OF WHAT THIS VALUATION IS AND WE WILL PASS INFO ALONG TO DEPT WHEN RECEIVED.

4. EMBASSY TRANSMITTING AUSTRALIAN REDRAFT OF U.S. NOTE IN SEPTEL.
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Message Attributes

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